

NEBRASKA ADMINISTRATIVE CODE

Last Issue Date: April 7, 1999

TITLE 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 35 - Debt Securities Issued by a Church or Congregation

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Director has determined that this Rule relating to disclosure requirements for the offering of debt securities issued by a church or congregation, the proceeds of which will be used to finance or refinance the purchase, construction or improvement of buildings or related facilities, is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

001.05 This Rule is not applicable to general obligation financing by national religious denominations. Such securities offerings must conform to the requirements of 48 NAC 36.

002 DEFINITIONS. The following definitions, in addition to definitions contained in 48 NAC 2, shall apply to this Rule:

002.01 Audited financial statements means financial statements prepared in accordance with generally accepted accounting principles applied on

a consistent basis, and examined and reported upon by independent certified public accountants or qualified public accountants.

002.02 Church bonds means certificates in the form of notes, bonds or similar instruments issued by an individual congregation or church which

represent an obligation to repay a specific principal amount at a stated rate of interest.

002.03 Investor means a person who is offered or who purchases a church bond.

002.04 Issuer means an individual church or congregation which offers and sells church bonds.

002.05 Limited graduated payments means a method of amortizing the debt by making payments of principal and interest on church bonds in such a manner that the first years of payments may be lower than the later years of payments.

002.05A The lowest payment may not be less than the interest due on the bonds.

002.05B The highest payment shall not exceed a payment amount ten percent (10%) higher than the straight line payment using the same total number of years.

002.06 Offering circular means the disclosure document prepared by the issuer to permit an investor to make an informed investment decision with respect to the purchase of a church bond.

002.07 Paying agent means a nominee, independent of the issuer and the broker-dealer, designated by the issuer to make payments to investors on behalf of the issuer pursuant to a trust indenture.

002.08 Service agent means a nominee, independent of the issuer, designated to monitor a bond issue on a continuing basis and to perform record keeping services for the issuer.

002.09 Straight line means a method of amortizing the payments of principal and interest on church bonds in such a manner that all payments are equal and the final payment retires the remaining principal and interest.

002.09A Principal payments may be deferred until the estimated construction completion date but not longer than 18 months from the date of the offering circular.

002.09B The period for amortization shall not exceed 20 years, unless otherwise allowed by the Director.

002.10 Trustee means a corporation, individual, or other entity (independent of the issuer) granted trust powers by a financial institution regulating agency, which holds title to the pledged properties securing the church bonds and administers the trust indenture.

002.11 Trust indenture means the instrument under which the trustee is given certain powers and controls over assets or property of the issuer to secure an issuance of church bonds.

003 FINANCIAL STATEMENT OF POLICY. An issuer should offer no more church bonds than it can reasonably expect to repay.

003.01 Total debt upon completion of the offering should not exceed four times the last 12 months' revenues not including nonrecurring bequests and other extraordinary forms of revenues.

003.02 The offering must be secured by a trust indenture pledging the properties acquired to secure the church bonds.

003.02A The church bonds must generally constitute a first lien on the pledged properties, but may be unsecured or secured by a less than first mortgage if the issuer can adequately support the economic soundness of the financing.

003.02B The aggregate amount of the offering should not be in excess of seventy-five (75%) of the appraised value of the properties pledged as collateral, after completion of the building project.

003.03 The trust indenture must:

003.03A Provide for a trustee;

003.03B Provide for the assignment or pledge of the issuer's first receipts for timely payment of the church bonds;

003.03C Include the usual contractual prohibitions including limitations on future offerings of securities if they would impair the issuer's ability to repay the church bonds;

003.03D Provide insurance coverage;

003.03E Provide for maintenance of the properties;

003.03F Prohibit further encumbrances upon the properties; and

003.03G Contain provisions which protect the rights of investors.

003.04 The trust indenture must provide for regular payments to the paying agent sufficient to service the payments on the church bonds.

003.05 The paying agent service agent must immediately report to the trustee each failure to cure a non-payment after 30 days of the due date from which the non-payment occurred.

003.06 An issuer may not normally utilize financing other than straight line or limited graduated payments.

003.06A Deviation from straight line amortization should be permitted only when the issuer is able to demonstrate that it did not present a material potential risk for investors.

003.06B "Balloon" payments or other graduated payments normally will not be deemed acceptable.

003.07 The issuer should obtain a fixed price contract, completion bond, or other acceptable form of assurance of performance for the completion of the construction of the facilities to be undertaken with the proceeds of the offering.

003.08 Church bonds offered to refinance obligations of the issuer which are in default or which will be in default without immediate refinancing will not be permitted unless the aggregate of all indebtedness which is to be outstanding after the current offering is within the standards set forth in this Rule.

003.09 The proceeds of the offering shall not be commingled with the issuer's other funds.

003.10 The issuer has the burden of proving substantial compliance with these principal standards.

004 OFFERING CIRCULAR. Each investor shall receive an offering circular which contains all material information necessary to make an informed investment decision. The offering circular shall contain the following information:

004.01 A cover page which includes the following:

004.01A Name of the issuer;

004.01B The issuer's principal business address and telephone number;

004.01C The title of the church bonds offered;

004.01D The total offering, estimated expenses and net proceeds of the offering to the issuer;

004.01E A brief description of the church bonds including interest rate, payment dates, denominations available, offering price and maturity dates;

004.01F Name, address and telephone number of the trustee;

004.01G The name, address and telephone number of the paying agent;

004.01H The name, address and telephone number of the principal underwriter or broker-dealer assisting with the offering, and statements as to any market-making intentions of the underwriter;

004.01I The date of termination of the offering and the issuer's right to extend the offering, if any;

004.01J The minimum amount of sales necessary to complete the offering, if any; and

004.01K The date of the offering circular.

004.01L The following legends shall appear on the cover page:

THESE SECURITIES ARE ISSUED PURSUANT TO A CLAIM OF EXEMPTION FROM REGISTRATION UNDER APPLICABLE STATE LAW AND SECTION 3(a)(4) OF THE FEDERAL SECURITIES ACT OF 1933. A REGISTRATION STATEMENT RELATING TO THESE SECURITIES [HAS/HAS NOT] BEEN FILED WITH THE STATE SECURITIES COMMISSION OR WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION. NEITHER THE STATE SECURITIES COMMISSION NOR THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION HAS PASSED UPON THE VALUE OF THESE SECURITIES, MADE ANY RECOMMENDATIONS AS TO THEIR PURCHASE, APPROVED OR DISAPPROVED THE OFFERING, OR PASSED UPON THE ADEQUACY OR ACCURACY OF THE OFFERING CIRCULAR. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS IN CONNECTION WITH THIS OFFERING OTHER THAN THOSE CONTAINED IN THIS OFFERING CIRCULAR. ANY STATEMENT OR REPRESENTATION BY ANY PERSON WHICH IS NOT INCLUDED IN THIS OFFERING CIRCULAR MAY BE UNLAWFUL AND SHOULD NOT BE RELIED UPON AS HAVING BEEN MADE BY THE ISSUER.

004.02 A table of contents which identifies the topics discussed in the prospectus and the exhibits attached to the offering circular and which

provides the page number where that information can be located in the offering circular.

004.03 The following sections, which shall be set out in narrative or descriptive form:

004.03A The issuer's history and operations, including:

004.03A1 A brief description of the issuer, including the name, address of principal business office, state of organization, date of organization, type of legal entity and religious purposes of the issuer;

004.03A2 A brief history of the issuer and its denominational affiliation, if any;

004.03A3 A brief description of the accreditation of the issuer, if any, and the entities regulating the issuer, if any;

004.03A4 A brief description of the current operations and functions of the issuer, including its principal activities and fiscal policies;

004.03A5 A brief description of the number of members of the issuer and a comparison of the growth or contraction of such membership over the past three years; and

004.03A6 A table showing the average church attendance, number of families that regularly contribute and the average Sunday school attendance.

004.03B The issuer's prior borrowing experience, including:

004.03B1 A description of any defaults in payments of principal or interest on previously issued debt;

004.03B2 A statement as to whether any proceeds from refinancing or additional offerings were necessary to repay any prior indebtedness; and

004.03B3 A brief description of the issuer's borrowing experiences and the results thereof.

004.03C The risks of investing in the church bonds, including, if applicable:

004.03C1 A description of the issuer's principal sources of revenues for repayment of the church bonds and the potential fluctuations, if applicable, in these sources;

004.03C1a If contributions are the primary source of revenues, the offering circular should state that there are no assurances that membership will increase or remain stable or that per capita contributions will increase or will remain stable.

004.03C1b If increased revenues are expected from increased membership upon completion of the facility which is to be constructed from the proceeds of the offering, a statement should be included that there can be no assurance that this increase will actually occur.

004.03C1c If additional financing may be required to repay investors, a statement should be included that there can be no assurance that such additional financing will be available.

004.03C2 A description of any restrictions on the transfer of the church bonds;

004.03C3 A statement that no public market will develop for the repurchase and resale of the church bonds;

004.03C4 If the issuer does not permit early redemption, a statement that investors should only purchase the church bonds if they intend to hold them for the full term thereof;

004.03C5 If construction of a proposed building is not pursuant to a fixed price contract, or the contractor does not post a completion bond, a statement as to the risks of non-compliance;

004.03C6 A description of the affiliation, if any, between the issuer and the contractor or any subcontractor;

004.03C7 A statement as to possible delays in completion due to shortages of materials, possible strikes, acts of nature, delays in obtaining necessary building permits or architectural certificates, environmental regulations or fuel or energy shortages;

004.03C8 A statement describing any risk associated with the use of any portion of the proceeds from the offering to refinance existing indebtedness, including the reasons for the need to refinance the previous indebtedness;

004.03C9 A statement as to any material pending litigation or contingent liabilities affecting the issuer, including contingent liabilities for the offer or sale of unregistered securities or potential liabilities before any administrative bodies;

004.03C10 If the trust indenture permits the issuer to further encumber the properties securing the church bonds through the issuance and sale of additional obligations at some future date, a description of the maximum debt-to-property ratio and the debt-to-receipts ratio;

004.03C11 A statement that, in the event of default, the church's property may not sell for its appraised value, since the appraised value of the church property is based on its value as a special purpose property, having a limited market due to its being, for the most part, single purpose (religious and educational);

004.03C12 A statement prominently disclosing the fact that the offering circular does not contain financial statements for

the issuer's past three fiscal years and audited financial statements for the preceding fiscal year, if applicable;

004.03C13 A statement describing any special risks relating to insurance, encumbrances, title to the properties or other aspects affecting the investor's security or the issuer's financial condition; and

004.03C14 A statement describing any special risk associated with the specific offering and all problems of which it is aware are described.

004.03C15 A statement to the effect that little or no risk is involved in buying church bonds is prohibited.

004.03C16 A comparison with other investments solely on the basis of the interest rate paid will be considered misleading, unless other comparative aspects of the investment are also described.

004.03C17 Each risk factor should include a page reference to an appropriate disclosure section.

004.03D A description of the manner in which funds will be held during the offering period.

004.03D1 Funds to be held in an escrow account with a state or federally regulated financial institution should not be disbursed for the project until the minimum proceeds necessary to complete the project have been obtained.

004.03D2 If the minimum proceeds are not obtained, the issuer must describe the manner in which investor's funds will be repaid and whether or not interest will be paid on such funds.

004.03E A tabular schedule of the anticipated use of the proceeds based upon the minimum and maximum anticipated proceeds from the offering including, if applicable, a statement indicating if

additional funds may be needed to accomplish the purpose of the offering and a description of how such funds will be obtained.

004.03F A description of the issuer's current accounting policies and financial structure, including:

004.03F1 The following financial statements, for the issuer's past three fiscal years, with audited financial statements for the most recent fiscal year as of a date not more than 120 days prior to the date of the proposed offering:

004.03F1a A statement of assets and liabilities;

004.03F1b A statement of revenues and expenses;

004.03F1c A statement of changes in financial position;
and

004.03F1d A statement of changes in fund balance.

004.08F1e Audited financial statements shall be preceded by a copy of the auditor's report.

004.03F2 If the issuer's last fiscal year ended more than 120 days prior to the date of the proposed offering, unaudited financial statements, including comparative income statements from the end of the issuer's last fiscal year to a date not more than 120 days prior to the date of the proposed offering.

004.03F2a Unaudited financial statements shall be signed by the chief financial officer or chief executive officer of the issuer attesting that the statements are true and accurate to their best of their knowledge and belief.

004.03F2b Unaudited financial statements included in the offering shall be prominently identified as such.

004.03F3 A schedule of outstanding and proposed debt in tabular form.

004.03F4 Any adverse material change in the financial condition of the issuer which occurs during the offering period shall be prominently disclosed in a sticker supplement to the offering circular.

004.03G A statement describing principal properties of the issuer and any liens or encumbrances thereon, including:

004.03G1 A description of the proposed facilities to be constructed from the proceeds of the offering and their proposed use;

004.03G2 A list of all liens and encumbrances of record on the facilities, or to be created on the facilities; and

004.03G3 A description of the purchase agreement if the real property is to be purchased with the proceeds of this offering.

004.03H A statement describing the terms of the church bonds, including:

004.03H1 The type and amount of the church bonds;

004.03H2 The interest rate, payment date, and paying agent;

004.03H3 The date upon which interest will begin to accrue;

004.03H4 A statement describing the underlying collateral, if applicable;

004.03H5 A statement describing whether the sale of additional church bonds may be secured by the same underlying security;

004.03H6 A description of the ability of any affiliates of the issuer or other person who guarantees payment of the church bonds to satisfy the liability, including:

004.03H6a Audited financial statements for such person, if available, and

004.03H6b A description of the guarantee agreement between the issuer and the guarantor;

004.03H7 A description of the issuer's right to early redemption of principal and the basis upon which such redemption may be made;

004.03H8 A description of the issuer or investor's right to extend the maturity date, if available;

004.03H9 A description of any consideration other than cash which will be acceptable for the purchase of church bonds;

004.03H10 A statement of whether the church bonds will be negotiable or transferable; and

004.03H11 A description of the trust indenture including the trustee, paying agent, events of default, covenants, restrictions upon subsequent issues, and rights of the issuer and trustee to modify the trust indenture.

004.03I The plan of distribution including a description of the class of offerees, the methods of solicitation to be utilized, and the method of subscribing, including:

004.03I1 A list of the names and addresses of officials of the church or underwriters who will offer or sell the church bonds;

004.03I2 The compensation to be paid to such individuals for performing the services in connection with the offering;

004.0313 Any fees paid to "finders" or "advisers" in connection with the distribution and the services rendered by such persons;

004.0314 The investor's personal liability for subsequent payment, if less than the full amount subscribed for is tendered by the investor during the offering period;

004.0315 Any underwriting or selling agreement between a broker and the issuer, including:

004.0315a Whether such agreements are on a "best efforts" or "firm commitments" basis,

004.0315b Whether such arrangements are "exclusive" or "nonexclusive," and

004.0315c Whether there are provisions for indemnification of the issuer or broker-dealer for losses sustained as a result of claims based upon violations of applicable securities laws;

004.0316 The responsibilities of the broker-dealer, the issuer, and the membership of the issuer under the terms of any underwriting agreement; and

004.0317 All past, present and anticipated future dealings with broker-dealers, investment advisers, or financing organizations participating in this offering, including:

004.0317a The aggregate remuneration received by such entities; and

004.0317b Any affiliation between any executive officer or director of the issuer and the broker-dealer or financing organization participating in this offering or with any executive personnel of such organization.

004.03J Any material legal proceeding or proceedings, including those that are known to be contemplated by governmental authorities, administrative bodies or other persons, to which the issuer is or may be a party or to which any of its property is or may be subject, including:

004.03J1 The name of the court or agency in which the proceedings are pending, the date instituted, and the principal parties thereto;

004.03J2 A description of the factual basis alleged to underlie the proceeding and the relief sought; and

004.03J3 The outcome of any legal proceeding which is no longer pending.

004.03K Any transactions which may materially affect this offering or an investor's investment decision, and which are not otherwise mentioned herein.

004.03L The general federal tax aspects of ownership of the church bonds, including, where appropriate:

004.03L1 Whether the investor will recognize gain or loss or receive a charitable deduction upon the purchase of the church bonds;

004.03L2 Whether interest paid or accrued on the church bonds will be taxable as ordinary income to the investor; and

004.03L3 The capital gains treatment upon sale or exchange of the church bonds.

004.03M The organizational structure of the issuer, including:

004.03M1 A description of the method used to choose and replace the members of the legal governing body;

004.03M2 A list of responsible church officers, the functions they perform for the issuer, and the date their terms of office expire;

004.03M3 A statement whether any member of the board or governing body (or, if there are a substantial number of members, any member who exercises supervisory authority) has, during the past 10 years, been convicted in any criminal proceeding (other than for traffic violations and other minor offenses), or is the subject of any pending criminal proceeding, or was the subject of any order, judgment or decree of any court enjoining such person from any activity associated with the offer or sale of securities;

004.03M4 A description of all direct and indirect remuneration, including pension or retirement plans, or the use of the issuer's assets for personal purposes, paid by the issuer to its executive officers or members of the board for the preceding fiscal year in the aggregate, and individually if in excess of \$30,000;

004.03M5 A description of any employment contracts, perquisites of employment or conflicts of interest with any person described in this section;

004.03M6 A description of any direct or indirect remuneration to be received by members of the issuer in connection with the offering; and

004.03M7 A list of pastors and associate pastors, their biographical histories and length of employment with the issuer.

004.03N An opinion from an independent legal counsel regarding the authority of the issuer to sell the church bonds, the validity of the church bonds when issued and the claim for exemption from registration, if applicable; and

004.03Q A list of the person or persons preparing any appraisals, a description of their qualifications for serving as such, and the method of appraisal used. All experts must be independent of the issuer and the broker-dealer.

005 INVESTOR REPORTS. The bond certificate shall contain a statement that current financial statements of the issuer will be made available to bondholders upon written request.

006 WAIVER. While disclosures not conforming to the standards contained in this Rule shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.